

WEBINAR WEDNESDAYS



Wednesday, August 11, 2021

TITLE IX & JUVENILE SEX CRIME INVESTIGATIONS

Presented by:

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Distributed by:

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
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EXECUTIVE DIRECTOR


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Two football players at Dixie Hollins High School in St. Pete are accused of raping a classmate

By Jennifer Hughes
 PUBLISHED: 11:47 PM EDT Aug 14, 2012
 UPDATED: 1:14 PM EDT Aug 14, 2012



Teen says she was sexually assaulted by Culver City High School football players on campus, sues district

By City News Service

POSTED: 10:50 PM, MON AUG 27 • UPDATED: ON 8/27/2012 2 COMMENTS

LOS ANGELES - A teenager who alleges she was sexually assaulted at Culver City High School by members the football team is suing the school district.

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Victim exposes 'complete failure' of Forest Hills schools to train for sex assault cases, judge says



By John Ager | jager@freemove.com
Follow on Twitter
on March 31, 2019 at 5:27 PM, updated March 31, 2019 at 5:36 PM



GRAND RAPIDS, MI - Forest Hills schools failed to train school workers on responding to complaints of sexual assault and harassment, a judge said Tuesday.

FOREST HILLS ASSAULT
School districts ramp up training after Forest Hills sex assault lawsuit, federal investigation

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Hartford Schools sued over alleged bullying

David Carlson
Published May 21, 2019, 8:07 pm | Updated May 21, 2019, 11:40 pm



NEW AT 8
FEDERAL LAWSUIT OVER HOW SCHOOLS HANDLED BULLYING CASE

HARTFORD, Mich. (WOOD) — Hartford Public Schools is the defendant in a federal lawsuit alleging the district and some staff knew a student was being bullied but didn't take the proper steps to stop it.

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Forest Hills Schools settles sex assault suit for \$600K

David Carlson and CJ Haver News & Web Staff
Published June 10, 2019, 10:17 a.m. | Updated June 10, 2019, 10:25 pm



EX-FOREST HILLS STUDENT SETTLES FOR BROCK OVER SEX ASSAULT



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Today we will cover

- Introduction to Title IX
- What Title IX investigations look like
- What Title IX adjudications look like
- Title IX issues specific to working with minors
- Other potential intersections with criminal process
- Dealing with those intersections

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Title IX of the
1972
Education
Amendments

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”

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What are we talking about when we say
Title IX?

- Statute
- Federal court cases interpreting civil rights statutes
- Federal guidance documents
- Individual resolution agreements between federal government and institutions
- **Regulations**

p.s.– don’t forget other state and federal laws may apply

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History of Title IX and sexual assault


- 2011 Dear Colleague Letter
- Survivor activism
- Obama administration enforcement
- Growing activism and litigation around due process
- 2017 Trump administration rescission
- 2020 Title IX regulations
- And possible future: Focus on K-12 schools

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Title IX Basics: Roles

- Title IX Coordinator
- Investigator
- Facilitator of informal resolution
- Party advisor
- Decisionmaker
- Appeals officer
- **TRAINING!!**




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Title IX Basics: School must respond

- Actual knowledge
- Sexual harassment
- Education program or activity
- Person in the United States




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Title IX Basics:

School must formally investigate

Formal complaint filed by complainant that alleges Title IX sexual harassment and requests an investigation



Or, a complaint filed by Title IX Coordinator

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Title IX Sexual Harassment is

Conduct on the basis of sex that satisfies one or more of the following:

- 1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- 3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

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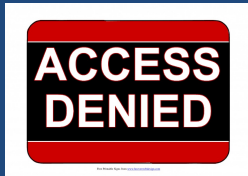
Characteristics of Title IX investigation

- Equal rights and equitable treatment
- Formal complaint
- Notice to parties
- Right to an advisor
- Interviews of parties
- Interviews of witnesses
- Collection of documentary and other evidence
- Party review of all evidence directly related to allegations and opportunity to provide feedback

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Limitations on scope of Title IX evidence collection



- No search warrants
- No subpoenas
- Can't compel anybody to do anything

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Evidence sharing


- School must share all evidence collected that is directly related to the allegations
- 10 days for review and response
- What can the parties and advisors do with the evidence that is shared with them?
- Investigator actions following review and response period



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And more sharing



- School must then summarize evidence that is relevant to allegations in an investigation report
- 10 days for review and response

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Characteristics of Title IX adjudication in K-12 schools

- Presumption of non-responsibility
- Option for decision on the papers or for live hearing
- Standard of evidence
- Mandatory bases for appeal

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Intersections specific to working with minors: Mandatory reporting laws

- How does Title IX change educators' obligations to report concerns of child abuse?

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Intersections specific to working with minors: Confidentiality and student privacy

- Schools' hesitance to share information
- Schools' interest in getting information from police

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Intersections specific to working with minors: Role of school resource officers

- Dual role in Title IX and law enforcement

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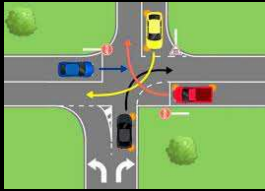
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Intersections specific to working with minors: Age-based consent issues

- Peer-on-peer sexual assault
- Witnesses and other evidence

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Other intersections with the criminal process

- Party experiences
- Witness experiences (including SANEs and cops)
- Confusion and irritation experienced by lots of people
- Timing
- Conflicting statements
- Decisions made based on different bodies of evidence

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Dealing with those intersections

- Get very familiar with the school's Title IX policy and procedures
- Ask for a pause if you need it
- Get to know the school's Title IX staff
- Appreciate the impacts of parallel investigations
- Provide expert training to school Title IX staff
- Development and leadership of a C-SART

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Questions?

- For more information:

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